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LETTER DATED 17 JUNE 1993 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I am writing with reference to the letter dated 19 March 1993 from the Deputy Permanent Representative of the United States of America to the United Nations addressed to you (S/25441).

As a preliminary response to the allegations made in the Pentagon report on war crimes imputed to Iraq, we should like to state as follows:

1. The report is full of arbitrary allegations formulated with the assistance of public relations firms and given currency by the information media for patently hostile purposes. Perhaps the most glaring example is the mendacious story, of how infants were deprived of incubators at the hospital, that was recounted in a theatrical manner by the daughter of the Kuwaiti Ambassador while pretending that it was impartial testimony. It later transpired that her allegation was false and that she had been coached by the American public relations firm hired by the Kuwaiti Embassy in Washington.

2. The material in the report is presented in a seductive manner, but it lacks any cogent evidence that might convince the unbiased.

3. The purpose of the Pentagon report is obvious, and it amounts to advancing United States policy with regard to Iraq through the use of disinformation and blackmail in order to intimidate Iraq for political and economic ends. The political goal is to weaken Iraq so as to achieve United States political objectives, chief among which is to ensure Israeli ascendancy. The economic objective is to control Iraq's natural resources, primarily oil, to subject those resources to international tutelage of a new and unprecedented kind to be exercised by the United States of America, and then to impose the same state of weakness, hunger and insolvency on the Iraqi people as it has imposed on other peoples of the world. The United States is promoting this new type of colonialism in order to control the developing countries and their natural resources on the basis of a new world order that accords with its own understanding and its own interests.

4. The report comprises a compilation of information from intelligence sources of dubious objectivity and veracity that emanate from a single country and one that is a party to the conflict, namely the United States of America. That

country alleges that Iraq has committed violations, while it ignores its own violations against the civilian inhabitants of Iraq. It bombarded them savagely and left their homes, mosques and churches in ruins. It destroyed drinking-water and sewerage facilities, historic buildings, shelters in which civilian inhabitants including children, women and old people had sought refuge, and civilian plants such as the Baghdad infant formula factory. The United States sought to halt the wheels of progress, and it had no concern for the spread of disease, ruin and death among the civilian population.

5. Any impartial observer must feel that the United States of America is not qualified to present an objective report on violations of the law of war. We can point to the enormous crimes it committed in Viet Nam, in Grenada, in Panama and in other parts of the world.

6. The Pentagon report alleges that Iraq committed war crimes. It states that "The term 'war crime' is a technical expression for a violation of the law of war, and every violation of the law of war is a war crime". This definition of a war crime is imprecise and illegal, since there has been no agreed definition of a war crime in international law but only attempts at a definition. In any event, an international crime requires the presence of two basic elements, the material element and the moral element (criminal intent), and the latter is not present in the few cases imputed to Iraqi personnel.

7. The report alleges that "Iraqi violations of the law of war were widespread and conducted pursuant to the orders or with the approval of the national leadership of Iraq" (section I., A.). This allegation is untrue, and it would require definite proof to establish it, particularly since the disparate testimony on different experiences given in the report proves that some of the actions that are alleged to have taken place were of an individual character, were not carried out on instructions from the Iraqi leadership and were not, as the report alleges, organized.

8. There are many contradictions in the report, particularly with regard to the matter of prisoners. While the report alleges that "All of the prisoners of war were victims of the war crimes committed by Iraq" (section I., B. 2.), it is stated elsewhere that "Iraq's compliance with the GPW [Geneva Convention relative to the Treatment of Prisoners of War] was mixed" (section II., C. 1.), "... most American POWs were treated kindly and properly from time to time by individual Iraqis" (section II., C. 1.), "Attentive medical care was provided" (section II., C. 2. (e)), and "... the Iraqi military attempted to treat the POWs reasonably well under onerous wartime conditions" (section II., C. 2. (e)).

9. At a number of points, the report speaks of State responsibility for the actions of its personnel and agencies. It is well known that such responsibility arises when the State does not hold its personnel to account when they commit crimes. This has not been the case with Iraq, since military personnel and civilians were brought to trial for acts committed in Kuwait and the competent courts pronounced sentences against them, up to and including capital punishment, which were carried out. This proves that the Iraqi authorities were earnest and resolute to prevent any breach of national or international law, and it refutes the allegation made that such acts were conducted pursuant to the orders or with the approval of the national leadership.

10. The report contains allegations based on individual testimony on which no reliance whatever can be placed, particularly since some of it ignores the duty and responsibility of the Iraqi State at that time to maintain security in Kuwait. Moreover, some of the charges made are to be considered as testimony in Iraq's favour rather than otherwise, such as the rationing of foodstuffs as a measure to prevent crime and preserve human life whether for the sake of Iraqis or others.

11. The report acknowledges that it was the aggressor coalition forces that destroyed certain oil installations and thus caused damage to the environment. Furthermore, according to responsible American sources, United States forces employed new weapons and ordnance (such as the depleted uranium projectiles used against tanks) without the consequences of their use being known, and their serious environmental and biological hazards only began to emerge subsequently.

12. The Pentagon report quotes article 22 of the third Geneva Convention: "Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness". It is clear that, despite the blanket bombardment of all towns and villages in Iraq, Iraq was able to provide prisoners with places of detention in keeping with the Convention within the limits permitted by the general and constant bombardment.

The report also claims that some prisoners complained of severe cold and lack of light in the prison camps. Are the United States and its allies not aware that when they launched their aggression against Iraq they destroyed the electric power stations and oil refineries?

13. It is stated in the report that Iraq intended to use chemical weapons. We ask the world's international lawyers: does a war crime arise from intention alone, and where is the material element and the criminal intent?

14. The report alleges that Kuwaiti civilians were displaced from their homes and their houses given to Iraqi immigrants. This allegation is untrue, since Iraq did not engage in the alleged immigration scheme.

15. It is stated in the report that there were missile attacks by Iraq against Saudi Arabia and Israel and that Israel was "a neutral to the conflict". This allegation is untrue, since Israel was not a neutral to the conflict but a party. It can be recalled that it has carried out numerous hostile acts against Iraq, including the 1981 attack on an Iraqi nuclear reactor dedicated to peaceful purposes without there having been any provocation on the part of Iraq.

Saudi Arabia was a principal party to the armed conflict, and the locations attacked were military sites. It participated in the acts of aggression against Iraq and made its territory a launching point for the forces of the United States and its allies against Iraq. Consequently, the Iraqi response against Israel and Saudi Arabia was in accord with the rules of armed conflict.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative